

*3/1*

36. (Original) The system of claim 35, wherein said DES algorithm is a triple-DES algorithm.

37. (Cancelled)

## **REMARKS**

In the Office Action mailed June 11, 2003, the Examiner rejected all pending claims 1, 3, 4, 11, 13-16, 19, 24-27, and 34-37. Claim 1, 3-4, 7-9, 11, 13-16, 24-26, and 37 have been cancelled without disclaimer or prejudice. As a result, claims 19, 27, 34, and 35-37 remain pending in the present application (2 independent claim, 8 claims total). No new matter has been added by this Amendment. Reconsideration is respectfully requested in light of the following Remarks.

### **A. Pending Claims**

In paragraph 2 of the Detailed Action, the Examiner does not enumerate claim 11 as one of the pending claims. Applicant assumes this is an oversight, as the Office Action Summary correctly identifies claim 11 as pending.

### **B. Withdrawal of Section 112 Rejections**

Applicant acknowledges that the rejections under 35 U.S.C. 112, second paragraph, have been withdrawn with respect to claims 1, 3, 4, 11, and 13-16.

### **C. Withdrawal of Section 102(e) Rejection**

Applicant acknowledges that the rejections under U.S.C. 102(e) has been withdrawn.

**D. Continued Examination**

Applicant acknowledges that the submission filed March 12, 2003 has been entered, and that the finality of the previous Office Action has been withdrawn pursuant to 37 C.F.R. 1.114.

**E. Claim Rejections -- 35 U.S.C. § 103**

Claims 1, 3, 4, 7, 8, 11, 13-16, 19, 24-27, and 34-37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,317,832 (the "Everett reference") in view of U.S. Patent No. 6,105,008 (the "Davis reference") and U.S. Patent No. 5,999,740 (the "Rowley reference"). Furthermore, claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the Everett reference and the Rowley reference and the Davis reference in further view of U.S. Patent No. 6,496,979 (the "Chen reference").

With respect to claims 1, 3, 4, 7, 8, 9, 11, 13-16, these claims have been cancelled without prejudice by the present Amendment, and therefore the rejections of these claims have been rendered moot. With respect to independent claims 19 and 34 as amended, and their respective dependent claims 24-27, and 35-36, these rejections are respectively traversed. Applicant submits that no combination of the cited references and prior art of record would include each and every element of the pending claims, and that there is no motivation to combine these references.

For example, none of the cited reference include a delegated download system wherein the smartcard is configured to perform (or take part in) three separate tasks over a network: downloading new instructions, update existing instructions, and overwriting existing instructions, wherein each of these tasks are performed in connection with a public-key "acknowledgment" as recited in the independent claims as amended.

The Examiner notes that the Everett reference "is not explicit about" forwarding the acknowledgement of the successful download and installation to the information owner, but argues that "Davis clearly teaches the system of securely confirming the download of digital data," and that "Rowley clearly discloses a system that automatically informs the information owner of successful download."

Applicant has considered these arguments, but respectfully disagrees. As mentioned previously, the Davis reference generally discloses a network-based system used to reload stored-value smart cards. The architecture of the system includes a number of servers that coordinate to load and use a smart card for payment of goods and services purchased on-line over the Internet, including a payment server, a client terminal (which interfaces with the smart card), and a merchant server. Figures 18A-18D set forth a flowchart which, in conjunction with Figure 5, discloses a method for loading of value onto a card. The method disclosed in the Davis reference indeed involves the transfer of data (specifically, data representing monetary funds) between and among the three parties shown in Fig. 5, and involves the generation and transmission of some type of "acknowledgement." However, the components and flow disclosed by the Davis reference vary greatly from that which is recited in claims 1 and 19 as amended. <sup>A cancelled claim</sup>

The Davis reference does not disclose a system wherein the data is "transferred by said external device as delegated by said information owner" as variously recited in the claims as amended. That is, the transfer of data disclosed in the Davis reference is not delegated, but is merely initiated by the User himself (see step 871 in Fig. 18A), after which the client terminal (which interfaces with the smart card) issues the load request to the load server (step 878 in Fig. 18A). In contrast, the present invention, as embodied in the pending claims, involves the delegated download of software in a way which is essentially transparent to the User of the

smartcard. Specifically, the data (specifically, the "software") is transferred "as delegated by" the information owner (e.g., the issuer) as recited in claims 1, 9, and 34. *(A cancelled claim  
(may b claim 11 has been issued))*

In addition, the Davis reference fails to disclose the transfer of "software" and the transmission, to the information owner, of a subsequently generated "verifiable acknowledgement of the transferred software" as recited in the pending independent claims. That is, the Davis reference exclusively deals with the secure transfer of information related to a monetary amount, which is a simple scalar value. The present invention relates to the transfer of software instructions and the generation of an acknowledgment based on the content of those instructions.

Furthermore, the Davis reference does not disclose a system wherein the information is "associated with the information owner" as recited in the independent claims. The Davis reference involves the transfer of funds from the payment server (item 206 in Fig. 5) to the merchant server (item 208 in Fig. 5); however, the monetary amount is not "associated with" the merchant server in the sense used in the present application. That is, the merchant server of Davis is not an "information owner" in the way the card issuer is the information owner of the transferred software delegated to the third party ("the external device") as recited in pending independent claims 1 and 19. *(A cancelled claim)*

Because even the combination of the cited references fails to anticipate each and every element of the independent claims, the dependent claims are believed to be patentable *a fortiori* and a detailed response to each of the dependent claim rejections is not necessary at this time. Nevertheless, Applicant reserves the right to independently demonstrate the patentability of any element found in the dependent claims at a later date. Furthermore, there is no need to discuss in detail the fact that there is no motivation or suggestion to combine the two references.

In summary, the cited references fail to disclose, suggest, or teach one or more elements of independent claims 19 and 34 as amended and the various dependent claims depending therefrom. Accordingly, Applicants respectfully request that the Section 103 rejections be withdrawn.

**F. Conclusion**

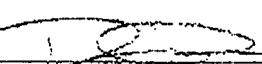
In view of the above remarks, Applicants respectfully submitted that the foregoing remarks fully address the Examiner's objections, and that all of the pending claims comply with 35 U.S.C. § 112, are patentable over the art of record, and are in condition for allowance.

A Notice of Allowance respecting all pending claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

Date September 11, 2003

By



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